

AMENDED IN SENATE JUNE 12, 2003

AMENDED IN ASSEMBLY MAY 7, 2003

AMENDED IN ASSEMBLY APRIL 21, 2003

CALIFORNIA LEGISLATURE—2003–04 REGULAR SESSION

## ASSEMBLY BILL

**No. 1369**

**Introduced by Assembly Member Pavley**

**(Coauthors: Assembly Members Calderon, Hancock, Koretz,  
Maze, Mullin, and Vargas)**

**(Coauthors: Senators Figueroa, Machado, Romero, and Soto)**

February 21, 2003

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An act to add Section 1569.6 to the Health and Safety Code, relating to ~~health facilities~~ *residential care facilities for the elderly*.

### LEGISLATIVE COUNSEL'S DIGEST

AB 1369, as amended, Pavley. ~~Health facilities~~ *Residential care facilities for the elderly: automatic external defibrillators.*

Existing law authorizes the Emergency Medical Services Authority to establish minimum standards for the training and use of automatic external defibrillators by individuals not otherwise licensed or certified for the use of the device.

Under existing law, the State Department of Health Services licenses and regulates skilled nursing and intermediate care facilities.

Under existing law, the State Department of Social Services licenses and regulates residential care facilities for the elderly.

A violation of provisions relating to residential care facilities for the elderly is a crime.

This bill would, commencing January 1, 2005, require every residential care facility for the elderly, where the facility's licensed bed capacity exceeds 60 persons to purchase, and train personnel in the use of, automatic external defibrillators. This bill would also provide that, ~~under specified conditions,~~ *except as prescribed, when* an employee of a residential care facility for the elderly ~~who~~ uses an automatic external defibrillator to render emergency care or treatment *in a manner consistent with the bill, neither the employee nor the board of directors of that facility is not* liable for civil damages resulting from any acts or omissions in rendering the emergency care or treatment.

*This bill would provide that, if a residential care facility for the elderly resident executes a request to forego resuscitative measures, an advanced directive, or a do-not-resuscitate order, the resident shall indicate separately, in writing, if he or she does not want facility employees to use an automatic external defibrillator if he or she needs emergency care or treatment.*

Because this bill would create a new crime, it would impose new duties upon local law enforcement agencies, thus constituting a state-mandated local program.

The California Constitution requires the state to reimburse local agencies and school districts for certain costs mandated by the state. Statutory provisions establish procedures for making that reimbursement.

This bill would provide that no reimbursement is required by this act for a specified reason.

Vote: majority. Appropriation: no. Fiscal committee: yes. State-mandated local program: yes.

*The people of the State of California do enact as follows:*

- 1 SECTION 1. Section 1569.6 is added to the Health and Safety
- 2 Code, to read:
- 3 1569.6. (a) Commencing January 1, 2005, every residential
- 4 care facility for the elderly as defined in Section 1569.2 with a
- 5 licensed bed capacity that exceeds 60 persons shall purchase, and
- 6 train personnel in the use of, an automatic external defibrillator
- 7 pursuant to Section 1797.190 and paragraphs (1) and (2) of
- 8 subdivision (b) of Section 1797.196.
- 9 (b) An employee of a residential care facility for the elderly
- 10 who uses an automatic external defibrillator consistent with the

1 terms of this section to render emergency care or treatment is not  
2 liable for civil damages resulting from any acts or omissions in  
3 rendering the emergency care or treatment, except as provided in  
4 subdivision ~~(e)~~ (d).

5 (c) *When an employee uses an automatic external defibrillator*  
6 *consistent with the requirements of this section to render*  
7 *emergency medical care or treatment, the members of the board of*  
8 *directors of the facility shall not be liable for civil damages*  
9 *resulting from any act or omission in rendering the emergency care*  
10 *or treatment, except as provided in subdivision (d).*

11 (d) Subdivision (b) does not apply in the case of personal injury  
12 or wrongful death that results from gross negligence or willful or  
13 wanton misconduct on the part of the person who uses an  
14 automatic external defibrillator to render emergency care or  
15 treatment.

16 ~~(d)~~

17 (e) (1) This section may not be construed to permit the use of  
18 an automatic external defibrillator contrary to a request to forego  
19 resuscitative measures, advance directives, or do-not-resuscitate  
20 orders.

21 (2) *If a resident executes a request to forego resuscitative*  
22 *measures, an advance directive, or a do-not-resuscitate order, the*  
23 *resident shall indicate separately, in writing, if he or she does not*  
24 *want facility employees to use an automatic external defibrillator*  
25 *if he or she needs emergency care or treatment.*

26 SEC. 2. No reimbursement is required by this act pursuant to  
27 Section 6 of Article XIII B of the California Constitution because  
28 the only costs that may be incurred by a local agency or school  
29 district will be incurred because this act creates a new crime or  
30 infraction, eliminates a crime or infraction, or changes the penalty  
31 for a crime or infraction, within the meaning of Section 17556 of  
32 the Government Code, or changes the definition of a crime within  
33 the meaning of Section 6 of Article XIII B of the California  
34 Constitution.